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Attorneys for Plaintiff and Counterdefendant
COPART INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

COPART INC.,
Plaintiff,

vs.

CRUM & FORSTER INDEMNITY
COMPANY, UNITED STATES FIRE
INSURANCE COMPANY, and DOES 1-10,
Inclusive,
Defendants.

Case No. C 07 2684 CW-EDL

E-FILING

**[PROPOSED] ORDER GRANTING
PLAINTIFF COPART, INC.'S
MOTION FOR SUMMARY
JUDGMENT**

Date: August 21, 2008
Time: 2:00 p.m.
Place: Courtroom 2, 14th Floor
Before the Hon. Claudia Wilken

AND RELATED CROSS-ACTION

Action Filed: March 20, 2007
Trial Date: November 10, 2008

After a review of Plaintiff Copart, Inc.'s Motion For Summary Judgment, and the papers and evidence submitted in support of and in opposition to this motion, and after considering all the arguments of counsel, and good cause appearing, the Court has determined that for all the reasons set forth in Copart's motion, Copart's motion for summary judgment should be granted in its entirety as follows: (1) on the liability of USFIC under the First Claim of Copart's Complaint for Breach of Contract on the ground that the plain meaning of the

1 applicable October 1, 2005 – October 1, 2006 property insurance policy provides coverage for
2 Copart's location known as "Yard 105" as a matter of law; (2) on the First Claim of USFIC's
3 Counterclaim for reformation on the grounds that (a) USFIC's request for reformation asks the
4 Court to write an entirely new policy and is improper as a matter of law, and (b) USFIC has
5 not and cannot come forward with clear and convincing evidence of mistake; and (3) on the
6 Second Claim of USFIC's Counterclaim for negligent misrepresentation on the grounds that
7 (a) there were no representations of fact made by Copart -- only opinions -- as a matter of law;
8 and (b) the speculative "benefit of the bargain" theory of damages that USFIC advances is
9 improper as a matter of law.

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11 SO ORDERED.

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13 Dated: _____

14 JUDGE CLAUDIA WILKEN
15 UNITED STATES DISTRICT JUDGE
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